

(b) The agreement must be for the same duration as the certification period set by the survey agency. However, if the Medicaid agency has adequate documentation showing good cause, it may make an agreement for less than this period.

(c) FFP is available for services provided by a facility for up to 30 days after its agreement expires or terminates under the conditions specified in § 441.11 of this subchapter.

[43 FR 45233, Sept. 29, 1978, as amended at 47 FR 31532, July 20, 1982; 59 FR 56235, Nov. 10, 1994]

§ 442.16 Extension of agreement for ICFs/MR.

A Medicaid agency may extend a provider agreement for a single period of up to 2 months beyond the original expiration date specified in the agreement if it receives written notice from the survey agency, before the expiration date of the agreement, that extension will not jeopardize the patients' health and safety, and—

(a) Is needed to prevent irreparable harm to the facility or hardship to the recipients in the facility; or

(b) Is needed because it is impracticable to determine, before the expiration date, whether the facility meets certification requirements.

[43 FR 45233, Sept. 29, 1978, as amended at 52 FR 32551, Aug. 28, 1987; 53 FR 20495, June 3, 1988; 59 FR 56235, Nov. 10, 1994]

§ 442.30 Agreement as evidence of certification.

(a) Under §§ 440.40(a) and 440.150 of this chapter, FFP is available in expenditures for NF and ICF/MR services only if the facility has been certified as meeting the requirements for Medicaid participation, as evidenced by a provider agreement executed under this part. An agreement is not valid evidence that a facility has met those requirements if CMS determines that—

(1) The survey agency failed to apply the applicable requirements under subpart B of part 483 of this chapter for NFs or subpart I of part 483 of this chapter, which set forth the conditions of participation for ICFs/MR.

(2) The survey agency failed to follow the rules and procedures for certification set forth in subpart C of this

part, subpart E of part 488, and § 431.610 of this subchapter;

(3) The survey agency failed to perform any of the functions specified in § 431.610(g) of this subchapter relating to evaluating and acting on information about the facility and inspecting the facility;

(4) The agency failed to use the Federal standards, and the forms, methods and procedures prescribed by CMS as required under § 431.610(f)(1) or § 488.318(b) of this chapter, for determining the qualifications of providers; or

(5) The survey agency failed to adhere to the following principles in determining compliance:

(i) The survey process is the means to assess compliance with Federal health, safety and quality standards;

(ii) The survey process uses resident outcomes as the primary means to establish the compliance status of facilities. Specifically, surveyors will directly observe the actual provision of care and services to residents, and the effects of that care, to assess whether the care provided meets the needs of individual residents;

(iii) Surveyors are professionals who use their judgment, in concert with Federal forms and procedures, to determine compliance;

(iv) Federal procedures are used by all surveyors to ensure uniform and consistent application and interpretation of Federal requirements;

(v) Federal forms are used by all surveyors to ensure proper recording of findings and to document the basis for the findings.

(6) The survey agency failed to assess in a systematic manner a facility's actual provision of care and services to residents and effects of that care on residents.

(7) Required elements of the NF survey process fails to include all of the following:

(i) An entrance conference;

(ii) A resident-centered tour of facility;

(iii) An in-depth review of a sample of residents including observation, interview and record review;

(iv) Observation of the preparation and administration of drugs for a sample of residents;